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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
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10/534,845

10/12/2005

Thierry Chartier

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EXAMINER

NICHOLS, CHRISTOPHER S

ART UNIT

PAPER NUMBER

1791

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PAPER

**Please find below and/or attached an Office communication concerning this application or proceeding.**

The time period for reply, if any, is set in the attached communication.

<b>Office Action Summary</b>	<b>Application No.</b> 10/534,845	<b>Applicant(s)</b> CHARTIER ET AL.	
	<b>Examiner</b> Christopher S. Nichols	<b>Art Unit</b> 1791	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

#### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

#### Status

- 1) ☒ Responsive to communication(s) filed on 21 April 2006.
- 2a) ☐ This action is **FINAL**.                      2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

#### Disposition of Claims

- 4) ☒ Claim(s) 1-19 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-19 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

#### Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 13 May 2005 is/are: a) ☐ accepted or b) ☒ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

#### Priority under 35 U.S.C. § 119

- 12) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☒ All    b) ☐ Some \*    c) ☐ None of:
1. ☒ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

#### Attachment(s)

- |  |   |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892)            | 4) <input type="checkbox"/> Interview Summary (PTO-413)           |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)   | Paper No(s)/Mail Date. _____                                      |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08) | 5) <input type="checkbox"/> Notice of Informal Patent Application |
| Paper No(s)/Mail Date <u>10/12/2005</u> .  | 6) <input type="checkbox"/> Other: _____                          |

**METHOD OF PRODUCING A CERAMIC ARTICLE BY MEANS OF PRESSURE  
CASTING**

***Drawings***

1. The drawings are objected to because Fig. 4 and 5 contain descriptive text in French. Corrected drawing sheets in compliance with 37 CFR 1.121(d) are required in reply to the Office action to avoid abandonment of the application. Any amended replacement drawing sheet should include all of the figures appearing on the immediate prior version of the sheet, even if only one figure is being amended. The figure or figure number of an amended drawing should not be labeled as “amended.” If a drawing figure is to be canceled, the appropriate figure must be removed from the replacement sheet, and where necessary, the remaining figures must be renumbered and appropriate changes made to the brief description of the several views of the drawings for consistency. Additional replacement sheets may be necessary to show the renumbering of the remaining figures. Each drawing sheet submitted after the filing date of an application must be labeled in the top margin as either “Replacement Sheet” or “New Sheet” pursuant to 37 CFR 1.121(d). If the changes are not accepted by the examiner, the applicant will be notified and informed of any required corrective action in the next Office action. The objection to the drawings will not be held in abeyance.

***Claim Rejections - 35 USC § 112***

2. The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

3. Claim 13 is rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

Regarding **Claim 13**, Claim 13 invokes 35 U.S.C. 112, sixth paragraph with the phrase “means for purging the injection means”. However, the specification does not set forth an adequate disclosure showing what is meant by that language. 35 U.S.C. 112, sixth paragraph states that a claim limitation expressed in means-plus-function language “shall be construed to cover the corresponding structure...described in the specification and equivalents thereof.” “If one employs means plus function language in a claim, one must set forth in the specification an adequate disclosure showing what is meant by that language. If an applicant fails to set forth an adequate disclosure, the applicant has in effect failed to particularly point out and distinctly claim the invention as required by the second paragraph of section 112.” *In re Donaldson Co.*, 16 F.3d 1189, 1195, 29 USPQ2d 1845, 1850 (Fed. Cir. 1994) (in banc).

#### ***Claim Rejections - 35 USC § 102***

4. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

5. Claims 1, 3-7, 9-11, and 14-18 are rejected under 35 U.S.C. 102(b) as anticipated by or, in the alternative, under 35 U.S.C. 103(a) as obvious over Goodman et al. (US 5,972,263), hereafter Goodman.

Regarding **Claim 1**, Goodman teaches a process for producing clay compositions for use in slip casting. Goodman teaches a slip casting process wherein a slip (see column 1 line 22-29) is cast under pressure (see column 2 line 11-15) to form a deposit (see column 1 line 40-43). The slip mixture comprises a solution containing water, clay, and deflocculants (see column 1 line 22-29; see also column 1 line 40-43). The water is sucked out of the slip, i.e. filtered (see column 1 line 40-43). It is the examiner's position that the water removed from the slip contains at least some residual amounts of deflocculant. Thus, the water filtered through the slip contains a deflocculant.

Regarding **Claim 3**, Goodman teaches the slip mixture comprises kaolinitic clay (see column 1 line 22-29).

Regarding **Claim 4**, Goodman teaches the slip mixture comprises a variety of clays (see column 1 line 22-29).

Regarding **Claim 5**, Goodman teaches the slip mixture comprises quartz (see column 1 line 22-29).

Regarding **Claims 6-7**, Goodman teaches using deflocculant of 0.12 wt % (see Table 1 at column 11-12; see also column 9 line 29-40).

Regarding **Claims 9, 11 and 14-18**, Goodman teaches the process of slip casting to form ceramic articles such as tableware made of china (see column 1 line 18-29). “[E]ven though product-by-process claims are limited by and defined by the process, determination of patentability is based on the product itself. The patentability of a product does not depend on its method of production. If the product in the product-by-process claim is the same as or obvious

from a product of the prior art, the claim is unpatentable even though the prior product was made by a different process.” *In re Thorpe*, 777 F.2d 695, 698, 227 USPQ 964, 966 (Fed. Cir. 1985).

Regarding **Claim 10**, Goodman teaches the process of slip casting to form ceramic articles such as tableware made of china (see column 1 line 18-29).

6. Claims 2-7, 9-11, and 14-18 are rejected under 35 U.S.C. 102(b) as anticipated by or, in the alternative, under 35 U.S.C. 103(a) as obvious over Goodman et al. (US 5,972,263), hereafter Goodman, as evidenced by Applicant’s Specification (see Page 3 line 22-24).

Regarding **Claim 2**, Goodman teaches the slip mixture contains a clay mixture (see column 1 line 22-29), i.e. flocculant. Clay based slips are flocculated as evidenced by Applicant’s Specification (see Page 3 line 22-24).

Regarding **Claim 3**, Goodman teaches the slip mixture comprises kaolinitic clay (see column 1 line 22-29).

Regarding **Claim 4**, Goodman teaches the slip mixture comprises a variety of clays (see column 1 line 22-29).

Regarding **Claim 5**, Goodman teaches the slip mixture comprises quartz (see column 1 line 22-29).

Regarding **Claims 6-7**, Goodman teaches using deflocculant of 0.12 wt % (see Table 1 at column 11-12; see also column 9 line 29-40).

Regarding **Claims 9, 11 and 14-18**, Goodman teaches the process of slip casting to form ceramic articles such as tableware made of china (see column 1 line 18-29). “[E]ven though product-by-process claims are limited by and defined by the process, determination of patentability is based on the product itself. The patentability of a product does not depend on its

method of production. If the product in the product-by-process claim is the same as or obvious from a product of the prior art, the claim is unpatentable even though the prior product was made by a different process.” *In re Thorpe*, 777 F.2d 695, 698, 227 USPQ 964, 966 (Fed. Cir. 1985).

Regarding **Claim 10**, Goodman teaches the process of slip casting to form ceramic articles such as tableware made of china (see column 1 line 18-29).

7. Claims 12-13 are rejected under 35 U.S.C. 102(b) as being anticipated by Marple et al. (CA 2,124,863), hereafter Marple.

Regarding **Claim 12**, Marple teaches a device for producing a ceramic item comprising a mold (see Fig. 1a 10; see also page 6 line 7-13), a first tank suitable for containing a slip (see Fig. 1a at 18; see also page 6 line 15), and a second tank containing a solution (see Fig. 1a at 20; see also page 6 line 15). In addition, Marple teaches a means for alternatively pressure injecting the slip from the first tank and solution from the second tank (see Fig. 1a;s see also page 6 line 17-24; see also page 11 line 17-19).

In addition, Claim 12 invokes 35 U.S.C. 112, sixth paragraph with the phrase “means for injecting under pressure”. The claim limitation “means for injecting under pressure” is being treated under 35 U.S.C. 112, sixth paragraph. Applicant discloses the “means for injecting under pressure” is a sprue (see Specification Page 7 line 1-5). Thus, Applicant has properly invoked 35 U.S.C. 112, sixth paragraph.

Regarding **Claim 13**, Marple teaches a means for purging (see Fig. 1a at 40).

***Claim Rejections - 35 USC § 103***

8. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

9. Claims 8 and 19 are rejected under 35 U.S.C. 103(a) as being unpatentable over Goodman as applied to claims 1, 3-7, 9-11, and 14-18 above.

Regarding **Claim 8**, Goodman also teaches that deflocculants control the rheological and casting properties of the slip (see column 1 line 27-29). It would have been obvious to one of ordinary skill in the art at the time of the invention without undue experimentation to optimize the deflocculant wt% in the slip to obtain the desired rheological and casting properties. “Discovery of optimum value of result effective variable in known process is ordinarily within skill of art.” *In re Boesch*, 617 F.2d 272, 205 USPQ 215 (CCPA 1980).

Regarding **Claim 19**, Goodman teaches the process of slip casting to form ceramic articles such as tableware made of china (see column 1 line 18-29). “[E]ven though product-by-process claims are limited by and defined by the process, determination of patentability is based on the product itself. The patentability of a product does not depend on its method of production. If the product in the product-by-process claim is the same as or obvious from a product of the prior art, the claim is unpatentable even though the prior product was made by a different process.” *In re Thorpe*, 777 F.2d 695, 698, 227 USPQ 964, 966 (Fed. Cir. 1985).



10. Claims 8 and 19 are rejected under 35 U.S.C. 103(a) as being unpatentable over Goodman as evidenced by Applicant's Specification (see Page 3 line 22-24) as applied to claims 2-7, 9-11, and 14-18 above.

Regarding **Claim 8**, Goodman also teaches that deflocculants control the rheological and casting properties of the slip (see column 1 line 27-29). It would have been obvious to one of ordinary skill in the art at the time of the invention without undue experimentation to optimize the deflocculant wt% in the slip to obtain the desired rheological and casting properties. "Discovery of optimum value of result effective variable in known process is ordinarily within skill of art." *In re Boesch*, 617 F.2d 272, 205 USPQ 215 (CCPA 1980).

Regarding **Claim 19**, Goodman teaches the process of slip casting to form ceramic articles such as tableware made of china (see column 1 line 18-29). "[E]ven though product-by-process claims are limited by and defined by the process, determination of patentability is based on the product itself. The patentability of a product does not depend on its method of production. If the product in the product-by-process claim is the same as or obvious from a product of the prior art, the claim is unpatentable even though the prior product was made by a different process." *In re Thorpe*, 777 F.2d 695, 698, 227 USPQ 964, 966 (Fed. Cir. 1985).

### ***Conclusion***

11. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Christopher S. Nichols whose telephone number is (571) 270-3969. The examiner can normally be reached on Monday thru Thursday 7:30 AM to 5:00 PM EST. If attempts to reach the examiner by telephone are unsuccessful, the examiner's

supervisor, Christina Johnson can be reached on (571) 272-1176. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

**/Christopher S. Nichols/  
Examiner, Art Unit 1791**

**/Richard Crispino/  
Supervisory Patent Examiner, Art Unit 1791**